

**United States Court of Appeals**

FIFTH CIRCUIT  
OFFICE OF THE CLERK

LYLE W. CAYCE  
CLERK

TEL. 504-310-7700  
600 S. MAESTRI PLACE,  
Suite 115  
NEW ORLEANS, LA 70130

January 17, 2024

Mr. Ari Cuenin  
Office of the Attorney General  
Solicitor General Division  
209 W. 14th Street  
7th Floor  
Austin, TX 78701

Mr. Michael Thomas Gray  
U.S. Department of Justice  
Environment & Natural Resources Division  
P.O. Box 7415  
Washington, DC 20044

No. 23-50632 USA v. Abbott  
USDC No. 1:23-CV-853

Dear Counsel,

Enclosed is the court's order filed this date directing this case be reheard en banc with oral argument. Under Fifth Circuit Local Rule 41.3 this order vacates the previous opinion and judgment of this court and stays the mandate.

Appellants will have until **February 16, 2024**, to file an en banc brief and the Appellees' en banc brief is due on **March 18, 2024**. You will be requested to furnish 22 paper copies of your en banc brief after the electronic filing is reviewed and processed. The color of the cover on your en banc brief will be the same as the color of the cover on your merits brief (blue for the appellant and red for the appellee). The case will be heard sometime during the week of **May 2024**. Counsel for the parties will receive adequate notice as to the exact date and time for the presentation of the oral argument.

We request that the parties forward **22 copies** of their previously filed merits briefs, reply briefs, supplemental briefs, and record excerpts, for the use of the en banc court. As you did previously, we request that all copies be spirally bound. These additional copies are due in the Clerk's Office by **January 31, 2024**. Please contact me if you have any questions.

Sincerely,

LYLE W. CAYCE, Clerk



By: Angelique B. Tardie, Deputy Clerk  
504-310-7715

CC:

Ms. Munera Al-Fuhaid  
Mr. Andrew Marshall Bernie  
Mr. Monroe David Bryant Jr.  
Mr. Matt A. Crapo  
Mr. Andrew D. Knudsen  
Mr. Brian H. Lynk  
Mr. Aaron Lloyd Nielson  
Ms. Lanora Christine Pettit  
Mr. Anthony J. Powell  
Mr. Landon Wade  
Mr. Ryan Daniel Walters  
Mr. Coy Allen Westbrook

United States Court of Appeals  
for the Fifth Circuit

United States Court of Appeals  
Fifth Circuit

**FILED**

January 17, 2024

Lyle W. Cayce  
Clerk

UNITED STATES OF AMERICA,

*Plaintiff—Appellee,*

*versus*

GREG ABBOTT, *in his capacity as Governor of the State of Texas;* STATE  
OF TEXAS,

*Defendants—Appellants.*

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Appeal from the United States District Court  
for the Western District of Texas  
USDC No. 1:23-CV-853

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ON PETITION FOR REHEARING EN BANC

(Opinion December 01, 2023, 5 Cir., 2023, 87 F.4<sup>th</sup> 616)

Before RICHMAN, *Chief Judge*, and JONES, SMITH, STEWART,  
ELROD, SOUTHWICK, HAYNES, GRAVES, HIGGINSON, WILLETT,  
HO, DUNCAN, ENGELHARDT, OLDHAM, WILSON, DOUGLAS, and  
RAMIREZ, *Circuit Judges*.

No. 23-50632

**PER CURIAM:**

A member of the court having requested a poll on the petition for rehearing en banc, and a majority of the circuit judges in regular active service and not disqualified having voted in favor, to hear this case en banc,

IT IS ORDERED that this cause shall be reheard by the court en banc with oral argument on a date hereafter to be fixed. The Clerk will specify a briefing schedule for the filing of supplemental briefs. Pursuant to 5<sup>th</sup> Circuit Rule 41.3, the panel opinion in this case dated December 01, 2023, is VACATED.